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IPCC NOVEMBER 2016 EXAM

TAXATION

Test Code - I N J1 1 3 1

BRANCH - (MULTIPLE) (Date :06.10.2016)

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Answer-1 (a) :

**Computation of Total Income and tax liability of CA. Suraj Chawla
for Assessment Year 2016-17**

Particulars	Working Note Nos.	Rs.
Income from House Property	1	71,540
Profit and gains of Business or Profession	2	9,36,750
Short-term capital gains	3	25,200
Income from other sources	4	<u>26,300</u>
Gross Total Income		10,59,790
Less: Deduction under Chapter VI-A	5	<u>45,000</u>
Total Income		<u>10,14,790</u>
Tax on total income		
Total Income		10,14,790
Less: Short-term capital gains (See Note 9 below)		<u>25,200</u>
Normal Income		<u>9,89,590</u>
Tax on normal income		1,22,918
Tax on short-term capital gains @15%		<u>3,780</u>
		1,26,698
Add: Education cess @ 2% and SHEC @ 1%		<u>3,801</u>
Total tax liability		<u>1,30,499</u>
Total tax liability (rounded off)		1,30,500 (5 Marks)

Notes :

(1)	Income from House Property	Rs.	Rs.
	Gross Annual Value	1,04,000	
	Less: Municipal taxes paid by owner	<u>1,800</u>	
	Net Annual Value (NAV)	1,02,200	
	Less: Deduction under section 24 @ 30% of NAV	<u>30,660</u>	71,540
	Rent received has been taken as the Gross Annual Value in the absence of other information relating to Municipal Value, Fair Rent and Standard Rent.		
(2)	Income under the head "Profits & Gains of Business or Profession"		
	Net profit as per Profit & Loss Account		10,78,055
	Add: Expenses debited to the Profit & Loss Account but not allowable		
	(i) Salary paid to computer specialist in cash disallowed under section 40A(3), since such cash payment exceeds Rs. 20,000	33,000	
	(ii) Municipal Taxes paid in respect of residential flat let out	<u>1,800</u>	<u>34,800</u>
			11,12,855
	Less: Expenses allowable but not debited to profit and loss account		
	Interest paid on loan taken from LIC used for repair of computer		<u>2,050</u>
			11,10,805
	Less: Income credited to Profit & Loss Account but not taxable under this head:		
	(i) Dividend on shares of Indian companies	10,155	
	(ii) Income from UTI	8,400	
	(iii) Profit on sale of shares	25,200	
	(iv) Honorarium for valuation of answer papers	26,300	
	(v) Rent received from letting out of residential flat	<u>1,04,000</u>	<u>1,74,055</u>
			9,36,750

(3) Capital gains:	Short term capital gain on sale of shares	25,200
(4) Income from other sources:	Dividend on shares of Indian companies 10,155	
	Less: Exempt under section 10(34) <u>10,155</u>	Nil
	Income from UTI 8,400	
	Less: Exempt under section 10(35) <u>8,400</u>	Nil
	Honorarium for valuation of answer papers	<u>26,300</u>
(5) Deductions under Chapter VI-A :		26,300
	Deduction under section 80D (Medical Insurance Premium)	

Policy holder	Amount of Premium (Rs.)	Amount eligible for deduction (Rs.)	
Self	15,000	15,000	
Wife (See note below)	11,000	Nil	
Married daughter (See note below)	12,000	Nil	
Dependent brother (See note below)	<u>8,000</u>	<u>Nil</u>	
		15,000	15,000

Deduction under section 80D (Medical Expenditure)

Medical expenditure incurred on the health of Father is allowed as deduction to the maximum of Rs. 30,000, since he is a very senior citizen. It is assumed that father is resident in India and no payment has been made to keep in force an insurance on his health. 30,000

Total deduction under Chapter VI-A

45,000

Note – Premium paid to insure the health of brother is not eligible for deduction under section 80D, since brother is not included in the definition of family. Premium paid to insure the health of wife is not eligible for deduction since payment is made in cash. Premium paid to insure the health of married daughter is not eligible for deduction as she is not dependent on Mr. Suraj.

- (6) Rs. 25,000 expended on foreign tour is allowable as deduction assuming that it was incurred in connection with his professional work. Therefore, it requires no further treatment, since the same has already been debited to Income & Expenditure A/c.
- (7) Incentive to articled assistants passing IPCC examination in their first attempt is deductible under section 37(1).
- (8) Repairs and maintenance paid in advance for the period 1.4.2016 to 30.9.2016 i.e. for 6 months amounting to Rs. 950 will be allowed since Mr. Suraj is following the cash system of accounting.
- (9) Since securities transaction tax has been paid on the shares and the period of holding of these shares is less than 12 months, the profit arising there from is a short-term capital gain chargeable to tax at 15% under section 111A.
- (10) Since depreciation debited to income and expenditure account is as per the Income-tax Rules, 1962, no adjustment for the same has been made.

(10 x 0.5 = 5 Marks)

Answer-1 (b) :

Computation of service tax liability

Particulars	Amount charged (Rs.)	Service tax liability (Rs.)
Fees charged for yoga camp conducted by a charitable trust [Note-1]	Nil	Nil
Amount charged by Bank Mitrs for the services provided to a bank with respect to Basic Savings Bank Deposit Accounts covered by Pradhan Mantri Jan Dhan Yojana (PMJDY) [Note-2]	Nil	Nil

Amount charged by cord blood banks by way of preservation of stem cells
[Note-3]

Service provided by commentators to a recognized sports body [Note-4]

Nil	Nil
5,20,000	5,20,000 × 14.5% = 75,400

(3 Marks)

Notes:

As per Mega Exemption Notification No. 25/2012 ST dated 20.06.2012:

1. Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from service tax. Activities relating to advancement of yoga are, inter alia, included in the definition of charitable activities.
2. Services provided by a business facilitator/a business correspondent (popularly known as Bank Mitra) to a banking company with respect to Basic Savings Bank Deposit Accounts covered by Pradhan Mantri Jan Dhan Yojana (PMJDY) are exempt from service tax.
3. Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt from service tax.
4. Services provided to a recognized sports body by an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body are exempt from service tax. Thus, services provided by commentators are taxable.

(2 Marks)

Answer-1 (c) :

Computation of Bajrangi Ltd.'s taxable turnover and CST payable

Particulars	Rs.	Rs.
Total inter-State sales		40,00,000
Less: Freight shown separately in the invoices [Freight not shown separately in invoices is not deductible]	1,50,000	
Goods returned by Mr. Vibishan [deductible as returned within 6 months]	35,000	
Goods rejected by Mr. Bharat after 6 months [deductible although returned after 6 months, as it is a case of an un-fructified sale]	<u>40,000</u>	<u>2,25,000</u>
Turnover (including CST)		37,75,000
Taxable turnover (rounded off) [Rs. 37,75,000 × 100/102]		<u>37,00,980</u>
CST @ 2% [Rs. 37,75,000 × 2/102]		
Since transactions are covered by valid 'C' Form, CST is 2% or sales tax rate within the State (5%), whichever is lower, i.e., 2%		
CST payable (rounded off)		74,020

(5 Marks)

Answer-2 (a) :

Total stay in India

Year	Days
2011-12	48 days
2012-13	215 days
2013-14	94 days
2014-15	55 days
2015-16	71 days

During previous year 2015-16 his stay in India is 71 days and in the four preceding years 48 + 215 + 94 + 55 = 412 days.

(4 Marks)

Resident in India (condition of 182 days for citizen not applicable as he has not gone for employment abroad but has been going out of India during the course of employment)

2014-15 — 55 days (Non-Resident)

2013-14 — 94 days but more than 365 days in the 4 preceding previous year. Hence, resident

2012-13 — 215 days — resident

2011-12 — 48 days non-resident

Prior to 2011-12 — resident

He satisfies the first condition of being resident in at least 2 out of 10 previous year prior to relevant previous year and the 2nd condition of being in India for 730 days or more in the 7 preceding previous years. He is “resident and ordinarily resident in India”.

(4 Marks)

Answer-2 (b) :

As per rule 6 of the Service Tax Rules, 1994, in case of individuals and partnership firms whose aggregate value of taxable services provided from one or more premises is Rs. 50 lakh or less in the previous financial year, the service provider has the option to pay tax on taxable services provided or agreed to be provided by him upto a total of Rs. 50 lakh in the current financial year on receipt basis. Since in the present case, aggregate value of services provided by Mr. Vineet in the preceding financial year was Rs.60 lakh, he cannot exercise the said option.

(2 Marks)

Resultantly, he is required to pay service tax in accordance with Point of Taxation Rules, 2011. As per rule 3 of the POTR, if the invoice is issued within 30 days of the completion of the provision of the service, point of taxation is:-

- (i) date of invoice (01.07.20XX), or
- (ii) date of receipt of payment (20.08.20XX), whichever is earlier.

Thus, point of taxation, in the given case, is date of invoice, i.e., 01.07.20XX.

However, if the aggregate value of services provided by Mr. Vineet in the preceding financial year was Rs. 40 lakh, he has the option to pay tax on taxable services provided or agreed to be provided by him upto a total of Rs.50 lakh in the current financial year on receipt basis. In that case, point of taxation will be 20.08.20XX.

(2 Marks)

Answer-2 (c) :

- (a) As per section 139(4C), a university referred to in section 10(23C), should file the return of income if its total income exceeds the basic exemption limit without giving effect to the provisions of section 10.

Since the total income of the university before giving effect to the exemption under section 10, exceeds the basic exemption limit of Rs.2,50,000, it has to file its return of income for the A.Y. 2016-17.

(2 Marks)

- (b) As per third proviso to section 139(1), every company or firm shall furnish on or before the due date the return in respect of its income or loss in every previous year. Since LLP is included in the definition of “firm” under the Income-tax Act, 1961, it has to file its return mandatorily, even though it has incurred a loss.

(2 Marks)

Answer-3 (a) :

Computation of deduction under section 10AA of the Income-tax Act, 1961

As per section 10AA, in computing the total income of Rudra Ltd. from its unit located in a Special Economic Zone (SEZ), which begins to manufacture or produce articles or things or provide any services during the previous year relevant to the assessment year commencing on or after 01.04.2006, there shall be allowed a deduction of 100% of the profit and gains derived from export of such articles or things or from services for a period of five consecutive assessment years beginning with the assessment year relevant to the previous year in which the Unit begins to manufacture or produce such articles or things or provide services, as the case may be, and 50% of such profits for further five assessment years subject to fulfillment of other conditions specified in section 10AA.

(2 Marks)

Computation of eligible deduction under section 10AA [See Working Note below]:

- (i) **If Unit in SEZ was set up and began manufacturing from 22-05-2009:**

Since A.Y. 2016-17 is the 7th assessment year from A.Y. 2010-11, relevant to the previous year 2009-10, in which the SEZ unit began manufacturing of articles or things, it shall be eligible for deduction of 50% of the profits derived from export of such articles or things, assuming all the other conditions specified in section 10AA are fulfilled.

$$= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 50\%$$

$$= 60 \text{ lakhs} \times \frac{300 \text{ Lakhs}}{400 \text{ Lakhs}} \times 50\% = \text{Rs.}22.50 \text{ Lakhs}$$

(2 Marks)

(ii) **If Unit in SEZ was set up and began manufacturing from 14-05-2013:**

Since A.Y.2016-17 is the 3rd assessment year from A.Y. 2014-15, relevant to the previous year 2013-14, in which the SEZ unit began manufacturing of articles or things, it shall be eligible for deduction of 100% of the profits derived from export of such articles or things, assuming all the other conditions specified in section 10A are fulfilled.

$$= \text{Profits of Unit in SEZ} \times \frac{\text{Export turnover of Unit in SEZ}}{\text{Total turnover of Unit in SEZ}} \times 100\%$$

$$= 60 \text{ lakhs} \times \frac{300 \text{ lakhs}}{400 \text{ lakhs}} \times 100\% = \text{Rs.}45 \text{ lakhs}$$

The unit set up in Domestic Tariff Area is not eligible for the benefit of deduction under section 10A in respect of its export profits, in both the situations.

(2 Marks)

Working Note:

Computation of total sales, export sales and net profit of unit in SEZ

Particulars	Rudra Ltd. (Rs.)	Unit in DTA (Rs.)	Unit in SEZ (Rs.)
Total Sales	6,00,00,000	2,00,00,000	4,00,00,000
Export Sales	4,60,00,000	1,60,00,000	3,00,00,000
Net Profit	80,00,000	20,00,000	60,00,000

(2 Marks)

Answer-3 (b) :

Computation of VAT payable and input tax credit for February, 2016

Particulars	Rs.
Output VAT payable (Note-1)	Nil
Less: Input tax credit $\left[1,00,00,000 \times \frac{(12.5-2)}{100} \right]$ (Note-2)	<u>10,50,000</u>
Net VAT payable	<u>Nil</u>
Balance input tax credit carried forward to next month	10,50,000

(3 Marks)

Notes:

- Inter-State stock transfers do not involve sale and, therefore they are not subject to VAT. Further, CST is not payable as there was no pre-existing agreement for the sale of the goods so transferred.
- In case of stock transfer of finished goods, input tax paid (on inputs used in manufacture of such finished goods) in excess of 2% is available as input tax credit.

(1 Mark)

Answer-3 (c) :

As per rule 4 of Service Tax Rules, 1994, where a person, liable for paying service tax on a taxable service provides such service from more than one premises or offices and has centralized billing/accounting system in respect of such service, and such centralized billing/accounting systems are located in one or more premises, he may, at his option, register such premises or offices from where centralized billing/accounting systems are located.

(2 Marks)

However, if such assessee does not have any centralized billing/accounting systems, he shall make separate applications for registration in respect of each of such premises or offices to the jurisdictional Superintendent of Central Excise. It may be noted that registration for a single premises is applied by making an online application at ACES website of CBEC.

(1 Mark)

Therefore, since ABC Designers Ltd. provides architectural services from different branches spread across the country, it can opt for centralized registration if it has centralized billing/accounting system located at one or

more of its centres. However, if it does not have any centralized billing/accounting systems, it shall have to obtain separate registration for each of its centres.

(1 Mark)

Answer-4 (a) :

	Urban Agricultural Land Rs.	Rural Agricultural land Rs. (Not a capital asset)	Listed Shares Rs.	Gold Rs.	House Property Rs.
Full Value of consideration	30,00,000	21,60,000	1,44,000	12,00,000	1,16,00,000
Less : Indexed cost of acquisition or cost of acquisition	19,45,800 ¹	N.A.	1,08,000	8,92,569 ²	1,16,74,800 ³
Long-term capital gain / loss	10,54,200	Nil	-	3,07,431	(74,800)
Short term capital gain	-	-	36,000	-	-
Less : Capital gain exempt					
U/s. 54B	9,20,000	-	-	-	-
U/s. 54F	-	-	-	1,53,716	0
Taxable LTCG/LTC Loss	1,34,200	N.A.	-	1,53,715	(74,800)
Short term capital gain	-	-	36,000	-	-

Long-term capital gain Rs.2,13,115

Short term capital gain Rs.36,000

(1) Indexed cost of urban agricultural land Rs.1,80,000 x $\frac{1081}{100}$ f = Rs.19,45,800.

(2) Indexed cost of Gold Rs.90,000 x $\frac{1081}{109}$ = Rs.8,92,569.

(3) Indexed cost of House Property Rs.10,80,000 x $\frac{1081}{100}$ = Rs.1,16,74,800.

The exemption under section 54F has been calculated as under :

$$\left(\text{Rs.}3,07,431 \times \frac{6,00,000}{12,00,000} = \text{Rs.}1,53,716 \right)$$

(8 Marks)

Answer-4 (b) :

Computation of CENVAT credit available to ABC Co. Ltd.

Particulars	Rs.
Electrical transformers falling under Chapter 85 of Excise Tariff (Note-1)	22,000
Moulds and dies (Note-1)	1,30,000
Pollution control equipment (Note-1)	20,000
Trucks used for the transport of raw material falling under tariff heading 8704 (Note-2)	Nil
Capital goods used outside the factory for generation of electricity for captive use within the factory (Note-1)	20,000
Refractories (Note-1)	5,000
Total excise duty paid on the eligible capital goods	<u>1,97,000</u>
CENVAT credit available = 50% of excise duty paid on capital goods (Note-3)	98,500

(5 Marks)

Notes:

- As per the definition of capital goods following goods are, inter alia, eligible capital goods for the purposes of claiming CENVAT credit:-
 - all goods falling under Chapter 85,
 - moulds and dies,
 - pollution control equipment,
 - refractories

- (e) capital goods used outside the factory of the manufacturer of the final products for generation of electricity for captive use within the factory.
- Motor vehicles used in the factory of the manufacturer are eligible as capital goods provided they do not fall under tariff headings 8702, 8703, 8704 and 8711. Therefore, the trucks used for the transport of raw material falling under tariff heading 8704 are not eligible capital goods.
 - CENVAT credit of only upto 50% of the excise duty paid is available in respect of the eligible capital goods in the year of purchase.

(3 Marks)

Answer-5 (a) :

Basic salary		1,20,000
Bonus		6,000
Special allowance		31,000
House rent allowance	15,000	
Less: Exempt (see Note 1)	<u>15,000</u>	Nil
Employer's contribution towards recognised provident fund in excess of 12% of salary (i.e. Rs. 18,000 — 12% of Rs.1,20,000)		3,600
Gratuity	2,30,000	
Less: Exempt (see Note 2)	<u>1,45,385</u>	84,615
Uncommuted pension [Rs.2000 + (40% of 2,000)]		2,800
Commuted pension	2,40,000	
Less: Exempt (see Note 3)	<u>1,33,333</u>	1,06,667
Tour expenses of Mrs. R (24,000 - 6,000)		<u>18,000</u>
Gross salary		3,72,682
Less: Deductions under section 16 Professional tax		<u>2,400</u>
Income from salary		3,70,282
Income from other sources		<u>2,20,000</u>
Gross total income		5,90,282
Less: Deduction u/s 80C (see Note 4)		<u>49,000</u>
Total income (rounded off)		<u>5,41,280</u>
Income-tax on Rs.5,41,280		28,256
Add: Education cess & SHEC @ 3%		<u>847,68</u>
Tax payable (rounded off)		<u>29,100</u>

(5 Marks)

Notes :

- House rent allowance is exempt from tax to the extent of minimum of the following three limits:
 - Rs.15,000 (being the house rent allowance); or
 - Rs.48,000 (being 40% of monthly basic salary, i.e., 40% of Rs.1,20,000);
 - Rs. 18,000 (being the excess of rent paid over 10% of salary, i.e., Rs.30,000 - 10% of Rs.1,20,000)
 Rs. 15,000 being the minimum, is exempt from tax.
- R is a private sector employee, covered by the Payment of Gratuity Act Number of completed years of service is 21 years. 15 days' salary is Rs.5,192.31 (i.e., Rs. 12,000 x 15/26). Gratuity exempt from tax, is the minimum of the following):
 - Rs.2,30,000 (being the amount of gratuity).
 - $12,000/26 \times 15 \times 21 = 1,45,385$; or
 - Rs.3,50,000;
 Rs.1,45,385 (being the minimum) is exempt from tax.
- Commuted pension is exempt from tax as under :

Commuted value of 60% of usual pension : Rs.2,40,000

Commuted value of full pension : Rs.4,00,000 (i.e. Rs.2,40,000 x 100/60)

Amount exempt from tax is one-third of commuted value of full pension, i.e., 1/3 of Rs.4,00,000, as R is in receipt of gratuity of the time of retirement.
- | | |
|---|---------------|
| Deduction under section 80C | Rs. |
| Contribution towards recognised provident fund | 24,000 |
| Insurance premium (eligible even if paid after retirement but during the previous year) | <u>25,000</u> |
| Gross qualifying amount | <u>49,000</u> |
| Total deduction | <u>49,000</u> |

Answer-5 (b) :

(i) In case where the taxable services are provided by any person located in a nontaxable territory and are received by any person located in the taxable territory, person liable to pay service tax is the recipient of such service under reverse charge mechanism.

Thus, in the given case, Universal Techo Ltd. is liable to pay service tax on the taxable service imported by it.

(2 Marks)

(ii) As per the Point of Taxation Rules, 2011, the point of taxation in respect of the persons required to pay tax under reverse charge mechanism is the date on which payment is made provided payment is made within a period of 3 months of the date of invoice. However, if the payment is not made within a period of three months of the date of invoice, point of taxation will be the first day that occurs immediately after the expiry of said three months.

Since in the given case, Universal Techo Ltd. has made the payment within 3 months from the date of the invoice, the point of taxation is the date of payment i.e., 28.02.2016.

(2 Marks)

(iii) The amount of R&D cess payable is allowed as a deduction from the service tax payable on the taxable service involving the import of technology provided:-

- (i) said amount of R&D cess is paid at the time or before the payment for the service subject to a maximum of 6 months from the date of invoice and
- (ii) records of R&D cess are maintained for establishing the linkage between the invoice and the R&D cess payment challan.

Since both the aforesaid conditions are fulfilled, Universal Techo Ltd. is eligible for said exemption. Therefore, service tax payable by Universal Techo Ltd. would be computed as under:

Particulars	(Rs.)
Service tax (Rs. 10,00,000 × 14.5%)	1,45,000
Less: Research and development cess paid	<u>50,000</u>
Net service tax liability	95,000

(4 Marks)

Answer-6 (a) :

**Computation of eligible deduction under Chapter VI-A of Ms. Roma for Assessment
Year 2016-17**

Particulars	Rs.	Rs.
Deduction under section 80C		
- Life insurance premium paid Rs. 35,000 (deduction restricted to 20% of the sum assured since the policy was taken before 1.4.2012) Rs. 1,50,000 x 20%	30,000	
- Public Provident Fund	1,50,000	
- Repayment of housing loan to Bhartiya Mahila Bank, Bangalore	<u>20,000</u>	
	<u>2,00,000</u>	
Restricted to a maximum of Rs. 1,50,000	1,50,000	
Deduction under section 80CCC for payment towards LIC pension fund	<u>1,40,000</u>	
	<u>2,90,000</u>	
As per section 80CCE, aggregate deduction under, inter alia, section 80C and 80CCC, is restricted to		1,50,000
Deduction under section 80D		
- Payment of medical insurance premium of Rs. 30,000 towards medical policy taken for self, wife and dependent children restricted to	25,000	
- Medical insurance premium paid Rs. 32,000 for parents, being senior citizen, restricted to	<u>30,000</u>	<u>5,000</u>

(4 Marks)

Answer-6 (b) :**Computation of Total Income of Mr. Dhaval and Mrs. Hetal for the A.Y. 2016-17**

Particulars	Mr. Dhaval(Rs.)	Mrs. Hetal(Rs.)
Salaries		4,60,000
Profits and gains of business or profession	7,50,000	
Income from other sources:		
Income by way of interest from company deposit earned by minor daughter A [See Note (d)]	30,000	
Less : Exemption under section 10(32)	<u>1,500</u>	<u>28,500</u>
Total Income	7,78,500	4,60,000

(2 Marks)

Notes:

- (a) The income of a minor child suffering from any disability of the nature specified in section 80U shall not be included in the hands of the parents. Hence, Rs. 1,08,000, being the income of minor son „B who suffers from disability specified under section 80U, shall not be included in the hands of either of his parents.
- (b) The income derived by the minor from manual work or from any activity involving exercise of his skill, talent or specialised knowledge or experience will not be included in the income of his parent. Hence, in the given case, Rs. 86,000 being the income of the minor daughter „C shall not be clubbed in the hands of the parents.
- (c) Under section 56(2)(vii), cash gifts received from any person/persons exceeding Rs. 50,000 during the year in aggregate is taxable. Since the cash gift in this case does not exceed Rs. 50,000, the same is not taxable.
- (d) The clubbing provisions are attracted even in respect of income of minor married daughter. The income of the minor will be included in the income of that parent whose total income is greater. Hence, income of minor married daughter 'A' from company deposit shall be clubbed in the hands of the Mr. Dhaval and exemption under section 10(32) of Rs. 1,500 per child shall be allowed in respect of such income.

(2 Marks)

Answer-6 (c) :

Where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month/quarter, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month/quarter. Such adjustment is subject to the condition that the excess amount paid is on account of reasons not involving interpretation of law, taxability, valuation or applicability of any exemption notification.

Since Mr. Rajesh Singla has paid the excess amount on account of a clerical error, he can adjust the excess payment of Rs. 3,15,000 against his service tax liability for the succeeding quarter.

(4 Marks)

Answer-6 (d) :

BWCG will be required to furnish to the Superintendent of Central Excise, at the time of filing the return for the first time, a list of following documents in duplicate:

- (a) all the records prepared or maintained by the assessee for accounting of transactions in regard to
- providing of any service;
 - receipt or procurement of input services and payment for them;
 - receipt, purchase, manufacture, storage, sale or delivery, as the case may be, in regard to inputs and capital goods;
 - other activities such as manufacture and sale of goods, if any.
- (b) all other financial records maintained by him in the normal course of business.

(4 Marks)

Answer-7 (a) :**Computation of assessable value and excise duty payable**

Particulars	Rs.
Price of machinery	5,00,000
Add: Packing charges [Note 1(i)]	5,000
Extra design charges [Note 1(i)]	45,000
Total	5,50,000
Less : 2% cash discount on price of machinery [Rs. 5,00,000 x 2%] [Note 1(iv)]	10,000
Assessable value	5,40,000
Excise duty @ 12.5%	67,500

(2.5 Marks)

Notes:

- While computing assessable value:-
 - packing charges and extra designing charges have been included as such payments are 'in connection with sale'.
 - transit insurance shown separately in the invoice has not been included as it is a part of transportation cost.
 - outward freight has not been included as it is incurred for transporting the goods beyond the place of removal.
 - cash discount has been allowed as deduction as it has been passed on to the buyer.
- State VAT does not affect excise duty payable.

(1.5 Mark)

Answer-7 (b) :

- (a) As per section 194-I, tax is to be deducted at source @ 2% on payment of rent for use of plant and machinery, only if the payment exceeds Rs.1,80,000 during the financial year.

Since rent of Rs. 1,65,000 paid by a partnership firm does not exceed Rs.1,80,000, tax is not deductible.

(1 Mark)

- (b) Section 194E provides that the person responsible for payment of any amount to a non-resident sportsman for contribution of articles relating to any game or sport in India in a newspaper has to deduct tax at source @ 20%. Further, since Chris Gayle, a cricket player of West Indies team is a non-resident, education cess @2% and secondary and higher education cess @1% on TDS should also be added.

Therefore, tax to be deducted = Rs. 59,000 x 20.60% = Rs. 12,154.

(1 Mark)

- (c) Under section 194BB, tax is to be deducted at source, if the income arising by way of winning a jackpot in horse races exceeds Rs.5,000. The rate of deduction of tax at source is 30%. Since, the winnings are paid to a resident, education cess @2% and secondary and higher education cess @1% has not been added to the tax rate of 30%.

Hence, tax to be deducted = Rs. 1,80,000 x 30% = Rs. 54,000.

(1 Mark)

- (d) Advertising is included in the definition of "work" under section 194C. Under section 194C, the provisions for tax deduction at source would not be attracted if the amount paid to a contractor does not exceed Rs. 30,000 in a single payment or Rs.75,000 in the aggregate during the financial year.

Therefore, provisions for deduction of tax at source under section 194C are not attracted in respect of payment of Rs.28,000 on 1.6.2015 to X Ltd. However, payment of Rs. 37,000 on 21.9.2015 to X Ltd. would attract TDS @2%, since it exceeds Rs.30,000.

Hence, tax to be deducted = Rs. 37,000 x 2% = Rs. 740

(1 Mark)

Answer-7 (c) :

Section 194A stipulates deduction of tax at source (TDS) on interest other than interest on securities if the aggregate of such interest credited or paid to the account of the payee during the financial year exceeds the specified amount.

(2 Marks)

In the case of UCO Bank in Writ Petition No. 3563 of 2012 and CM No. 7517/2012 vide judgment dated 11/11/2014, the Hon'ble Delhi High Court has held that the provisions of section 194A do not apply to fixed deposits made in the name of Registrar General of the Court on the directions of the Court during the pendency of proceedings before the Court.

(2 Marks)

In such cases, till the Court passes the appropriate orders in the matter, it is not known who the beneficiary of the fixed deposits will be. Amount and year of receipt is also unascertainable. The Delhi High Court, thus, held that the person who is ultimately granted the funds would be determined by orders that are passed subsequently. At that stage, undisputedly, tax would be required to be deducted at source to the credit of the recipient. The High Court has also quashed Circular No.8/2011.

(2 Marks)

The CBDT has accepted the aforesaid judgment. Accordingly, it is clarified that interest on FDRs made in the name of Registrar General of the Court or the depositor of the fund on the directions of the Court, will not be subject to TDS till the matter is decided by the Court. However, once the Court decides the ownership of the money lying in the fixed deposit, the provisions of section 194A will apply to the recipient of the income.

(2 Marks)